

4-1-1. Short title.

This title shall be known and may be cited as the "Utah Agricultural Code."

Enacted by Chapter 2, 1979 General Session

4-1-2. Construction.

This code shall be liberally construed and applied to promote and effectuate its policies and purposes.

Enacted by Chapter 2, 1979 General Session

4-1-3. Principles of law and equity applicable.

Unless displaced by the particular provisions of this code, the principles of law and equity supplement its provisions.

Enacted by Chapter 2, 1979 General Session

4-1-3.5. Procedures -- Adjudicative proceedings.

The Department of Agriculture and Food and its divisions shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

4-1-4. Code enforcement -- Inspection authorized -- Condemnation or seizure -- Injunctive relief -- Costs awarded -- County or district attorney to represent state -- Criminal actions -- Witness fee.

(1) To enforce a provision in this title, the department may:

(a) enter, at reasonable times, and inspect a public or private premises where an agricultural product is located; and

(b) obtain a sample of an agricultural product at no charge to the department, unless otherwise specified in this title.

(2) The department may proceed immediately, if admittance is refused, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry to the premises to inspect or obtain a sample.

(3) (a) The department is authorized in a court of competent jurisdiction to:

(i) seek an order of seizure or condemnation of an agricultural product that violates this title; or

(ii) upon proper grounds, obtain a temporary restraining order or temporary or permanent injunction to prevent violation of this title.

(b) The court may not require a bond of the department in an injunctive proceeding brought under this section.

(4) (a) If the court orders condemnation, the department shall dispose of the agricultural product as the court directs.

(b) The court may not order condemnation without giving the claimant of the agricultural product an opportunity to apply to the court for permission to:

- (i) bring the agricultural product into conformance; or
 - (ii) remove the agricultural product from the state.
- (5) If the department prevails in an action authorized by Subsection (3)(a), the court shall award court costs, fees, storage, and other costs to the department.
- (6) (a) Unless otherwise specifically provided by this title, the county attorney of the county in which the product is located or the act committed shall represent the department in an action commenced under authority of this section.
- (b) The attorney general shall represent the department in an action to enforce:
 - (i) Chapter 3, Utah Dairy Act; or
 - (ii) Chapter 5, Utah Wholesome Food Act.
- (7) (a) In a criminal action brought by the department for violation of this title, the county attorney or district attorney in the county in which the alleged criminal activity occurs shall represent the state.
- (b) Before the department pursues a criminal action, the department shall first give to the person it intends to have charged:
 - (i) written notice of its intent to file criminal charges; and
 - (ii) an opportunity to present, personally or through counsel, the person's views with respect to the contemplated action.
- (8) A witness subpoenaed by the department for whatever purpose is entitled to:
 - (a) a witness fee for each day of required attendance at a proceeding initiated by the department; and
 - (b) mileage in accordance with the fees and mileage allowed a witness appearing in a district court of this state.

Amended by Chapter 156, 2008 General Session

4-1-5. Suspension or revocation of license or registration -- Judicial review -- Attorney general to represent department.

- (1) If the department has reason to believe that a licensee or registrant is or has engaged in conduct that violates this title, it shall issue and serve a notice of agency action.
- (2) The commissioner, or the hearing officer designated by the commissioner, may suspend or revoke a person's license or registration if the commissioner or hearing officer finds by a preponderance of the evidence that the person is engaging, or has engaged, in conduct that violates this title.
- (3) (a) Any person whose registration or license is suspended or revoked under this section may obtain judicial review.
- (b) Venue for judicial review of informal adjudicative proceedings is in the district court in the county where the alleged acts giving rise to the suspension or revocation occurred.
- (4) The attorney general shall represent the department in any original action or appeal commenced under this section.

Amended by Chapter 161, 1987 General Session

4-1-6. Fees and late charges.

If an annual registration, license, or other fee is imposed under any chapter of this code, it shall be determined by the department pursuant to Subsection 4-2-2(2). If the renewal of the registration or license is conditioned, among other things, upon the payment of a renewal fee on or before a specified date, the department shall charge and collect the renewal fee and a late fee on any license or registration which is renewed after the date specified for renewal in the applicable chapter. The renewal fee and late fee shall be determined by the department pursuant to Subsection 4-2-2(2).

Amended by Chapter 130, 1985 General Session

4-1-7. Severability clause.

If any provision of this code or the application of any such provision to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this code which can be given effect without the invalid provision or application, and to this end the provisions of this code are declared to be severable.

Amended by Chapter 378, 2010 General Session

4-1-8. General definitions.

Subject to additional definitions contained in the chapters of this title which are applicable to specific chapters, as used in this title:

(1) "Agriculture" means the science and art of the production of plants and animals useful to man including the preparation of plants and animals for human use and disposal by marketing or otherwise.

(2) "Agricultural product" or "product of agriculture" means any product which is derived from agriculture, including any product derived from aquaculture as defined in Section 4-37-103.

(3) "Commissioner" means the commissioner of agriculture and food.

(4) "Department" means the Department of Agriculture and Food created in Chapter 2, Department - State Chemist - Enforcement.

(5) "Dietary supplement" has the meaning defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(6) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

(7) "Organization" means a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

(8) "Person" means a natural person or individual, corporation, organization, or other legal entity.

Amended by Chapter 324, 2010 General Session

4-1-9. Growing or storing food for personal or family use.

(1) As used in this section, "family food" means food owned by an individual that

is intended for the individual's consumption, or for consumption by members of the individual's immediate family, that:

- (a) is legal for human consumption;
- (b) is lawfully possessed; and
- (c) poses no risk:
 - (i) to health;
 - (ii) of spreading insect infestation; or
 - (iii) of spreading agricultural disease.

(2) Family food that is grown by an individual on the individual's property is not subject to local or federal regulation if growth of the family food:

- (a) does not negatively impact the rights of adjoining property owners; and
- (b) complies with the food safety requirements of this title.

(3) A government entity may not confiscate family food described in Subsection (2) or family food that is stored by the owner in the owner's home or dwelling.

(4) If any provision of this section or the application of any provision of this section to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this section shall be given effect without the invalid provision or application. The provisions of this section are severable.

Enacted by Chapter 401, 2012 General Session